

1 IN THE COUNTY OF WASHINGTON

2
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
4 VIRGINIA GAS AND OIL BOARD
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8 September 20, 2005
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12 APPEARANCES:

13 **BOARD MEMBERS:**

14 MASON BRENT - OIL & GAS REPRESENTATIVE
15 BILL HARRIS - PUBLIC MEMBER
16 PEGGY BARBAR - PUBLIC MEMBER
17 JAMES McINYRE - PUBLIC MEMBER
18 MARY QUILLEN - PUBLIC MEMBER

19 **CHAIRMAN:**

20 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

21 **COUNSEL:**

22 SHARON PIGEON - ASSISTANT ATTORNEY GENERAL
23
24 GARY EIDE - DMME INSPECTOR
25

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21 *Approve minutes

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1 BENNY WAMPLER: Good Morning. My name is Benny
2 Wampler. I'm Deputy Director for the Department of Mines,
3 Minerals and Energy, and Chairman of the Gas and Oil Board;
4 and I'll ask the Board members to introduce themselves,
5 starting with Mr. Brent.

6 MASON BRENT: My name is Mason Brent and I'm from
7 Heathsville, Virginia, and I represent the Gas and Oil
8 industry.

9 PEGGY BARBAR: I'm Peggy Barbar, Southwest Virginia
10 Community College. I'm of public at-large.

11 SHARON PIGEON: I'm Sharon Pigeon. I'm here from
12 the Attorney General's office.

13 MARY QUILLEN: Mary Quillen. I represent the
14 public interest.

15 JIM MCINTYRE: I'm Jim McIntyre, Wise, Virginia, a
16 citizen appointee.

17 GARY EIDE: I'm Gary Eide. I'm an inspector with
18 the Division of Gas and Oil. I'm sitting in for Bob Wilson
19 who couldn't be here today. But Bob is the Director of the
20 Division of Gas and the Principal Executive to the Staff of
21 the Board.

22 BENNY WAMPLER: The first item on today's agenda is
23 a petition from Pine Mountain Oil and Gas, Incorporated for
24

1 pooling of a coalbed methane unit Watkins 19-CBM Unit 72-AB,
2 docket number VGOB-05-0920-1495. We'd ask the parties that
3 wish to address the Board in this matter to come forward at
4 this time.

5 TIM SCOTT: Tim Scott representing Pine Mountain
6 Oil and Gas.

7 PHIL HORNE: Phil Horne, District Landman, Pine
8 Mountain Oil and Gas.

9 IAN LANDON: Ian Landon, operation's manager at
10 Pine Mountain Oil and Gas.

11 BENNY WAMPLER: Okay, the record will show there no
12 others. Do you want to go ahead and be sworn in?

13 TIM SCOTT: Yeah, could you all please raise your
14 right hands.

15 (Witnesses are duly sworn.)

16 BENNY WAMPLER: You may proceed.

17

18 PHIL HORNE
19 having been duly sworn, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SCOTT:

23 Q. Okay. Mr. Horne, would you state your full
24

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1 name and by whom you're employed?

2 A. My name is Phillip Spencer Horne. I'm
3 District Landman for Pine Mountain Oil and Gas.

4 Q. And what is your job description, please.

5 A. We work on getting permits to drill wells,
6 buy right-of-ways, deal with oil and gas owners, surface
7 owners, make surface damage settlements.

8 Q. Okay. Did you assist in the preparation of
9 the applications now pending before the Board?

10 A. Yes, I did.

11 Q. And is this unit located in the Nora Coalbed
12 Gas Field?

13 A. Yes, it is.

14 Q. Does this unit contain 60 acres?

15 A. Yes.

16 Q. Before we go on with the additional
17 testimony, we provided the Board with a revised plat. I want
18 to ask Mr. Horne some questions about that plat. Mr.
19 Plat...Mr. Horne, we provided a new plat to the Board, did
20 that plat require additional notification?

21 A. No.

22 Q. Okay. What was the purpose for the
23 revision?

24

1 A. The inspector wanted us to show the closest
2 coalbed methane well to the proposed well.

3 Q. And were any other parties who were listed
4 removed from that?

5 A. Paramount Coal Company as the coal lessee
6 was removed. We've been told that Paramount didn't need to
7 be notified.

8 Q. All right. Any other revisions to the plat?

9 A. No.

10 Q. Okay. Does Pine Mountain own drilling
11 rights in this unit?

12 A. Yes, we do.

13 Q. And are there any respondents listed as
14 unleased on Exhibit B-3 who should be dismissed from this
15 application?

16 A. No, there are not.

17 Q. With regard to the respondents, there is
18 just one gentleman listed, is that correct?

19 A. That's correct.

20 Q. And did you attempt to reach a voluntarily
21 agreement with Mr. Deel prior to the filing of the
22 application?

23 A. Yes, I met with him twice at home in
24
25

1 Tazewell, Virginia and was unsuccessful.

2 Q. Have you had ongoing discussions with Mr.
3 Deel?

4 A. Yes, I spoke with him last week and told him
5 we would be here this morning.

6 Q. Okay. What percentage does Pine Mountain
7 have under lease for this unit?

8 A. 99.59%.

9 Q. And was notice of this hearing provided to
10 the respondents on Exhibit B-3?

11 A. Yes, by certified mail.

12 Q. How else was notice effected?

13 A. Notice was published in the Bluefield Daily
14 Telegraph.

15 Q. And what...what day was that published?

16 A. August the 24th, '05.

17 Q. Are there any unknown owners in this unit?

18 A. No.

19 Q. Okay. Have you filed proofs of publication
20 and your mail certification with the Board?

21 A. Yes, we have.

22 Q. Is Pine Mountain authorized to conduct
23 business in the Commonwealth?

24

1 A. Yes, we are.

2 Q. And does it have a blanket bond on file with
3 the department?

4 A. Yes.

5 Q. Should you reach an agreement...a voluntary
6 agreement with Mr. Deel, what would those terms be?

7 A. Five dollars per acre for a five year lease
8 with a one-eighth royalty.

9 Q. In your opinion, is this a reasonable
10 compensation for a lease in this area?

11 A. Yes, it is.

12 Q. What percentage of the coal estate does Pine
13 Mountain have under lease?

14 A. 99.59%.

15 Q. And the oil and gas estate?

16 A. 99.59%.

17 Q. What percentage of the oil and gas estate
18 are you seeking to pool?

19 A. .41%.

20 Q. And what about the coal estate?

21 A. .41%.

22 Q. Is there an escrow requirement for this
23 particular unit?

24

1 A. No.

2 Q. Are you requesting the Board to pool the
3 unleased respondents listed on Exhibit B-3?

4 A. Yes, we are.

5 Q. Are you requesting that Pine Mountain be
6 named as operator for this particular unit?

7 A. Yes.

8 Q. And what address should be used for any
9 correspondence regarding elections with regard to this unit?

10 A. It would be P. O. Box 2136, Abingdon,
11 Virginia 24210...24212, excuse me.

12 Q. And to whose attention should that
13 correspondence be---?

14 A. Phil Horne.

15 TIM SCOTT: Okay. That's all the questions I have
16 for Mr. Horne.

17 BENNY WAMPLER: Now, you did say there's no
18 conflicting owners?

19 PHIL HORNE: I believe I misspoke there. There is
20 a .31%, I believe.

21 TIM SCOTT: .31%.

22 SHARON PIGEON: You have an E.

23 TIM SCOTT: Okay. We didn't notify those people.

24

1 PHIL HORNE: Right. Of the force pooling, right.
2 TIM SCOTT: No. But we notified Deel.
3 PHIL HORNE: Right, exactly. Okay.
4 TIM SCOTT: Okay. We've got a problem. We didn't
5 notify this gentleman.
6 BENNY WAMPLER: Okay.
7 SHARON PIGEON: The Boyds, you didn't notify them?
8 TIM SCOTT: No, we did not notify them.
9 BENNY WAMPLER: Do you need it continued then?
10 TIM SCOTT: Yes, sir.
11 BENNY WAMPLER: All right. The case will be
12 continued until next month.
13 PHIL HORNE: This one right here signed a lease.
14 TIM SCOTT: Huh?
15 PHIL HORNE: He's leased.
16 TIM SCOTT: Oh, I'm sorry...I'm sorry.
17 PHIL HORNE: He's leased. The parties leased.
18 TIM SCOTT: I'm sorry, I was confused. So, we do
19 not need to continue it. He is leased.
20 BENNY WAMPLER: Okay. All right.
21 TIM SCOTT: Okay. And we don't have a conflict
22 then?
23 PHIL HORNE: Well, he owns the surface and gas well
24

1 and the coalbed methane.

2 BENNY WAMPLER: You have a conflict, but you've got
3 a lease.

4 TIM SCOTT: Well...right, okay. I'm sorry.

5 SHARON PIGEON: But you didn't have a notice
6 problem.

7 TIM SCOTT: I'm sorry.

8 PHIL HORNE: But we notified it, okay, for the
9 permit section.

10 TIM SCOTT: This is our first day. So, I
11 apologize.

12 BENNY WAMPLER: That's all right. It's early too.

13 TIM SCOTT: Okay.

14 BENNY WAMPLER: Let's just take a pause here. Mr.
15 Harris, you just joined. Do you care to just introduce
16 yourself.

17 BILL HARRIS: Yes, thank you. Sorry I'm late. I'm
18 Bill Harris, a public member from Wise County.

19 BENNY WAMPLER: Thank you. Go ahead.

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21 IAN LANDON
22 having been duly sworn, was examined and testified as
23 follows:
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DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Landon, would you state your name,
please?

A. My name is Ian Landon. I'm Operations
Manager for Pine Mountain Oil and Gas.

Q. And are you familiar with the application
pending before the Board?

A. Yes, I am.

Q. Are you familiar with the total depth of
this proposed well?

A. Yes, 2,175 feet.

Q. And are you requesting the Board to pool the
coalbed methane gas reserves from...to the designated
formations and to the surface to the total depth drilled?

A. Yes.

Q. And what are the estimated reserves for this
unit?

A. 250 million cubic feet.

Q. And are you familiar with proposed costs of
this well?

A. Yes.

Q. And what's the estimated dry hole costs?

1 A. \$104,831.

2 Q. And what's the estimated completed costs?

3 A. \$305,565.

4 Q. Now, we have a...we presented an AFE to the
5 Board. Who prepared that AFE?

6 A. I...I prepared the AFE.

7 Q. Okay. And does the AFE include a reasonable
8 charge for supervision?

9 A. Yes, it does.

10 Q. Okay. In your opinion, would granting of
11 this application be in the best interest of conservation,
12 prevention of waste and protection of correlative rights?

13 A. Yes.

14 TIM SCOTT: That's all the questions I have for Mr.
15 Landon.

16 BENNY WAMPLER: Questions from members of the
17 Board?

18 (No audible response.)

19 BENNY WAMPLER: Do you have anything further?

20 TIM SCOTT: No, sir. We'd just ask that the
21 application be approved as submitted.

22 BENNY WAMPLER: Is there a motion?

23 JIM McINTYRE: Motion to approve, Mr. Chairman.

24

1 PEGGY BARBAR: I'll second.

2 BENNY WAMPLER: Second. Any further discussion?

3 (No audible response.)

4 BENNY WAMPLER: All in favor, signify by saying

5 yes.

6 (All members signify by saying yes.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval.

10 TIM SCOTT: Thank you.

11 PHIL HORNE: Thank you.

12 BENNY WAMPLER: The next item on the agenda is a

13 petition from Equitable Production Company for a well

14 location exception for proposed well V-535453. This is

15 docket number VGOB-05-0920-1496. We ask the parties that

16 wish to address the Board in this matter to come forward at

17 this time.

18 JIM KAISER: Mr. Chairman and Board members, Jim

19 Kaiser and Don Hall on behalf of Equitable Production

20 Company. We'd ask that Mr. Hall be sworn in at this time.

21 (Don Hall is duly sworn.)

22 BENNY WAMPLER: The record will show no others.

23 You may proceed.

24

1 JIM KAISER: Wait a minute for Mr. Hall to get his
2 bearings.

3 BENNY WAMPLER: Okay.

4 DON HALL: I'm ready.

5

6 DON HALL

7 having been duly sworn, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KAISER:

11 Q. Would you state your name for the Board, who
12 you're employed by and in what capacity?

13 A. My name is Don Hall. I'm employed by
14 Equitable Production Company as District Landman.

15 Q. Now, this particular well, did we pool this
16 last month?

17 A. Yes.

18 Q. And everybody, including myself, yourself
19 and Mr. Wilson, we missed a well that we needed to get an
20 exception from to the north of 535453, is that correct?

21 A. That's correct.

22 Q. So, we're back again this month seeking an
23 exception for this well. Do your responsibilities include
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1 the land involved here and in the surrounding area?

2 A. They do.

3 Q. Are you familiar with the application we

4 filed seeking a location exception?

5 A. Yes.

6 Q. Have all interested parties been notified as

7 required by Section 4(B) of the Virginia Gas and Oil Board

8 Regulations?

9 A. They have.

10 Q. Would you indicate for the Board the

11 ownership of oil and gas underlying the unit for well number

12 V-535453?

13 A. We have a 100% of it either leased or force

14 pooled.

15 Q. Okay. And does Equitable have the right to

16 operate the one reciprocal well, that being 53456?

17 A. We do.

18 Q. And this is an exception that we're seeking

19 of roughly what 38 feet?

20 A. Yes.

21 Q. And are there any correlative rights issues?

22 A. No, there isn't.

23 Q. Could you explain for the Board why we need

24

1 this exception?

2 A. The well is located on a lease that we took
3 from Jean Johnson Robinson. The terms of that lease was on
4 condition that they had to approve the well site. This
5 is...this is where they wanted us to put the well site.
6 Basically for consideration to the surface owner.

7 Q. Right. So, we're just trying to accommodate
8 the surface owner because if you take a look at the plat, I
9 would direct the Board to the plat, I mean, we could
10 obviously go 38 feet to the south and have a legal location?

11 A. Right. But this is...this is where they
12 chose---.

13 Q. Okay.

14 A. ---for us to put the location.

15 Q. In the event the location exception were not
16 granted, would you project the estimated loss of reserves?

17 A. 300 million cubic feet.

18 Q. And what's the total depth of the well?

19 A. 5926 feet.

20 Q. Is the applicant requesting this location
21 exception cover conventional gas reserves to include the
22 designated formations from the surface to the total depth
23 drilled?

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1 A. Yes.

2 Q. In your opinion, would the granting of this
3 location be in the best interest of preventing waste,
4 protecting correlative rights and maximizing the recovery of
5 the gas reserves underlying the unit for V-535453?

6 A. Yes.

7 JIM KAISER: Nothing further of this witness at
8 this time, Mr. Chairman.

9 BENNY WAMPLER: Questions from members of the
10 Board?

11 (No audible response.)

12 BENNY WAMPLER: Do you have anything further?

13 JIM KAISER: We'd ask that the application be
14 approved as submitted.

15 BENNY WAMPLER: Is there a motion?

16 JIM MCINTYRE: Motion to approve, Mr. Chairman.

17 PEGGY BARBAR: I second.

18 BENNY WAMPLER: Second. Any further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying
21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

1 (No audible response.)

2 BENNY WAMPLER: You have approval.

3 GARY EIDE: Mr. Chairman.

4 BENNY WAMPLER: Yes.

5 GARY EIDE: The Division of Gas and Oil would like
6 to recognize Mr. Hall for bringing this to our attention. A
7 permit was issued and a stay subsequently issued too. But
8 Mr. Hall found the problem and notified Mr. Wilson of the
9 problem. We wanted to thank him for being forthcoming and
10 honest in this situation. Thank you.

11 BENNY WAMPLER: Thank you. The next item on the
12 agenda is a petition from Equitable Production Company for
13 creation and pooling of a conventional gas unit V-536100.
14 This is docket number VGOB-05-0920-1497. We'd ask the
15 parties that wish to address the Board in this matter to come
16 forward at this time.

17 JIM KAISER: Again, Mr. Chairman, Jim Kaiser and
18 Don Hall on behalf of Equitable Production Company.

19 BENNY WAMPLER: The record will show no others.
20 You may proceed.

21

22 DON HALL

23 DIRECT EXAMINATION

24

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1 QUESTIONS BY MR. KAISER:

2 Q. Mr. Hall, again, state your name for the
3 Board, who you're employed by and in what capacity?

4 A. My name is Don Hall. I'm employed by
5 Equitable Production Company as District Landman.

6 Q. And do your responsibilities include the
7 land involved here and in the surrounding area?

8 A. It does.

9 Q. Are you familiar with our application...
10 Equitable's application seeking the establishment of a unit
11 and pooling any unleased interest for this well, which was
12 dated August the 19th, 2005?

13 A. Yes.

14 Q. Is Equitable force...seeking to force pool
15 the drilling rights underlying the unit as depicted at
16 Exhibit A, that being the plat to the application?

17 A. Yes.

18 Q. Does Equitable own drilling rights in the
19 unit involved here?

20 A. We do.

21 Q. Prior to following the application, were
22 efforts made to contact each of the respondents and an
23 attempt made to work out an agreement regarding the

24

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1 development of the unit?

2 A. Yes.

3 Q. What is the interest of Equitable that's

4 leased within the unit?

5 A. We have 95.21% of the unit leased.

6 Q. Are all unleased parties set out in Exhibit

7 B-3?

8 A. Yes.

9 Q. And what is the percentage of the unit that

10 remains unleased?

11 A. 4.79%.

12 Q. We don't have any unknown or unlocateable

13 owners in this unit do we?

14 A. That's correct we don't.

15 Q. And in your professional opinion, was due

16 diligence exercised to locate each of the respondents named

17 herein?

18 A. Yes.

19 Q. And are the addresses set out in Exhibit B

20 to the application the last known addresses for the

21 respondents?

22 A. They are.

23 Q. Are you requesting this Board to force pool

24

1 all unleased interest as listed at Exhibit B-3?

2 A. Yes.

3 Q. Now, are you familiar with the fair market
4 value of drilling rights in the unit here and in the
5 surrounding area?

6 A. Yes.

7 Q. Could you advise the Board as to what those
8 are?

9 A. We pay a five dollar bonus on a five year
10 term with a one-eighth royalty.

11 Q. In your opinion, do the terms you just
12 testified to represent the fair market value of and the fair
13 reasonable compensation to be paid for drilling rights within
14 this unit?

15 A. They do.

16 Q. Now as to our one unleased party, Tract 3,
17 Irvin and Lena Jean Fuller, do you recommend that they be
18 allowed the following statutory options with respect to their
19 ownership interest within the unit: 1) participation; 2) a
20 cash bonus of five dollars per net mineral acre plus a one-
21 eighth of eight-eighths royalty; 3) in lieu of a cash bonus
22 and one-eighth of eight-eighths royalty share in the operation
23 of the well on a carried basis as a carried operator under
24

1 the following conditions: such carried operator should be
2 entitled to the share of production from the tracts pooled
3 accruing to his interest exclusive of any royalty or
4 overriding royalty reserved in any leases or assignments
5 thereof or agreement relating thereto of such tracts, but
6 only after the proceeds applicable to their share equal 300%
7 of the share of such costs applicable to the interest of a
8 carried operator of a leased tract or portion thereof; or
9 200% of the share of such costs applicable to the interest of
10 the carried operator of an unleased tract or portion thereof?

11 A. Yes.

12 Q. Do you recommend that the order provide that
13 elections by respondents be in writing and sent to the
14 applicant at Equitable Production Company, 1710 Pennsylvania
15 Avenue, Charleston, West Virginia 25302, Attention: Melanie
16 Freeman?

17 A. Yes.

18 Q. Should this be the address for all the
19 communications with the applicant concerning any force
20 pooling order?

21 A. It should.

22 Q. Do you recommend that the order provide that
23 if no written election is properly made by a respondent, then

24

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1 such a respondent should be deemed to have elected the cash
2 option in lieu of participation?

3 A. They should.

4 Q. Should unleased respondents be given 30 days
5 from the date that they receive the recorded Board order to
6 file their written elections?

7 A. Yes.

8 Q. If an unleased respondent elects to
9 participate, should they be given 45 days to pay for their
10 proportionate share of actual well costs?

11 A. Yes.

12 Q. Does the applicant expect the party electing
13 to participate to pay in advance that party's share of actual
14 well costs?

15 A. We do.

16 Q. Should the applicant be allowed 120 days
17 following the recording date of the Board and thereafter,
18 annually on that date until production is achieved to pay or
19 tender any delay rental or cash bonus that may become due
20 under the force pooling order?

21 A. Yes.

22 Q. Do you recommend that the order provide that
23 if a respondent elects to participate but fails to pay their
24

1 proportionate share of well costs satisfactory to the
2 applicant for payment of those costs, then the respondents
3 election to participate should be treated as having been
4 withdrawn and void and such respondent should be treated as
5 if no initial election had been filed, in other words, deemed
6 to have leased?

7 A. Yes.

8 Q. Do you recommend that the order provide that
9 where a respondent elects to participate, but defaults in
10 regard to payment of well costs, any cash sum becoming
11 payable to that respondent be paid within sixty days after
12 the last date on which said respondent could have paid or
13 made satisfactory arrangements for the payments of those well
14 costs?

15 A. Yes.

16 Q. Again, we stated that we don't have
17 any...it's a conventional well and we don't have any unknown
18 or unlocateable owners. So, the Board does not need to
19 establish an escrow account, correct?

20 A. That's correct.

21 Q. And who should be named the operator under
22 the force pooling order?

23 A. Equitable Production Company.

24

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1 Q. Total depth of the proposed well?
2 A. 6,056 feet.
3 Q. And the estimated reserves for the unit?
4 A. 400 million.
5 Q. Are you familiar with the well costs for
6 this well?
7 A. Yes.
8 Q. Has an AFE been reviewed, signed and
9 submitted to the Board as Exhibit C?
10 A. Yes.
11 Q. Was this AFE prepared by an engineering
12 department knowledgeable in the preparation of AFEs and
13 knowledgeable in regard to well costs in this particular
14 area?
15 A. Yes.
16 Q. In your opinion, does the AFE represent a
17 reasonable estimate of the well costs?
18 A. It does.
19 Q. Could you state for the Board both the dry
20 hole costs and complete well costs?
21 A. Dry hole costs is \$282,760 and the completed
22 well costs are \$484,086.
23 Q. Do these costs anticipate a multiple
24

1 completion?

2 A. They do.

3 Q. Does your AFE include a reasonable charge
4 for supervision?

5 A. Yes.

6 Q. In your professional opinion, would the
7 granting of this application be in the best interest of
8 conservation, the prevention of waste and the protection of
9 correlative rights?

10 A. It would.

11 JIM KAISER: Nothing further of this witness, Mr.
12 Chairman.

13 BENNY WAMPLER: Questions from members of the
14 Board?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further?

17 JIM KAISER: Mr. Chairman, we'd ask that the
18 application be approved as submitted.

19 BENNY WAMPLER: Is there a motion?

20 JIM McINTYRE: So moved, Mr. Chairman.

21 BENNY WAMPLER: Motion to approve.

22 MASON BRENT: Second.

23 BENNY WAMPLER: Second. Any further discussion?

24

1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying
3 yes.

4 (All members signify by saying yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. The next item
8 on the agenda is a petition from Equitable Production Company
9 for pooling of a coalbed methane unit VC-536531, docket
10 number VGOB-05-0920-1498. We'd ask the parties that wish to
11 address the Board in this matter to come forward at this
12 time.

13 JIM KAISER: Mr. Chairman, again, Jim Kaiser and
14 Don Hall on behalf of Equitable Production Company.

15 BENNY WAMPLER: The record will show no others.
16 You may proceed.

17

18 DON HALL

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KAISER:

21 DON HALL

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KAISER:

24

--

1 Q. Mr. Hall, again, state your name for the
2 Board, who you're employed by and in what capacity?

3 A. My name is Don Hall. I'm employed by
4 Equitable Production Company as District Landman.

5 Q. And are you familiar with Equitable's
6 application seeking to pool any unleased interest in the unit
7 for EPC well number VC-536531, which was dated August the
8 19th, 2005?

9 A. Yes.

10 Q. Does Equitable own drilling rights in the
11 unit involved here?

12 A. We do.

13 Q. And prior to the filing of the application,
14 were efforts made to contact each of the respondents owning a
15 interest and an attempt made to work out a voluntary lease
16 agreement regarding the development of the unit?

17 A. Yes.

18 Q. What is the interest under lease to
19 Equitable in the gas estate in the unit?

20 A. We have 99.10% leased.

21 Q. And the interest under lease in the coal
22 estate?

23 A. 100%.

24

--

1 Q. And are all the unleased parties set out in
2 Exhibit B-3?
3 A. They are.
4 Q. And the percentage of the gas estate that
5 remains unleased?
6 A. .90%.
7 Q. Now, that represents the interest owned in
8 the gas estate in Tract 3 by Eva May Adkins, is that correct?
9 A. That's correct.
10 Q. Okay. We don't have any unknown or
11 unlocateable parties in this unit?
12 A. No.
13 Q. In your professional opinion, was due
14 diligence exercised to locate each of the respondents named?
15 A. Yes.
16 Q. Are the addresses set out in Exhibit B to
17 the application, the last known addresses for the
18 respondents?
19 A. They are.
20 Q. Are you requesting this Board to force pool
21 the one unleased interest listed in Exhibit B-3?
22 A. Yes.
23 Q. Are you familiar with the fair market value
24

1 of drilling rights in this unit and in the surrounding area?

2 A. Yes.

3 Q. Could you advise the Board as to what those
4 are?

5 A. We pay a five dollar bonus on a five year
6 term with a one-eighth royalty.

7 Q. In your opinion, do the terms you just
8 testified to represent the fair market value of and the fair
9 and reasonable compensation to be paid for drilling rights
10 within this unit?

11 A. They do.

12 JIM KAISER: Now, Mr. Chairman, at this time, I'd
13 ask that the Board incorporate the testimony regarding the
14 statutory elections afforded the unleased party and their
15 different obligations and time lines in which to make that
16 election that was just previously heard in docket number 05-
17 0920-1497.

18 BENNY WAMPLER: That will be incorporated.

19 Q. Mr. Hall, in this particular case, we do
20 have a conflicting claim in Tract 3. So, the Board does need
21 to establish an escrow account for any proceed attributable
22 to Tract 3, is that correct?

23 A. That's correct.

24

--

1 Q. And who should be named the operator under
2 the force pooling order?

3 A. Equitable Production Company.

4 Q. And what is the total depth of the proposed
5 well?

6 A. 2461 feet.

7 Q. And the estimated reserves for the unit?

8 A. 330 million.

9 Q. Again, are you familiar with the well costs
10 for this well?

11 A. Yes.

12 Q. Has an AFE been reviewed, signed and
13 submitted to the Board as Exhibit C?

14 A. It has.

15 Q. In your opinion, does this AFE represent a
16 reasonable estimate of the well costs?

17 A. Yes.

18 Q. Would you state for the Board both the dry
19 hole costs and complete well costs for this well?

20 A. Dry hole costs is \$116,805 and the completed
21 costs is \$268,898.

22 Q. Do these costs anticipate a multiple
23 completion?

24

1 A. They do.

2 Q. Does your AFE include a reasonable charge
3 for supervision?

4 A. Yes.

5 Q. In your professional opinion, would the
6 granting of this application be in the best interest of
7 conservation, the prevention of waste and the protection of
8 correlative rights?

9 A. Yes.

10 JIM KAISER: Nothing further of this witness at
11 this time, Mr. Chairman.

12

13 BENNY WAMPLER: Questions from members of the
14 Board?

15 BILL HARRIS: Mr. Chairman.

16 BENNY WAMPLER: Mr. Harris.

17 BILL HARRIS: Mr. Hall, just a quick question. I
18 was just a little curious about some of the figures in the
19 AFE and compared it to the last case, which I know we've
20 already voted on. Down about two-thirds of the way down on
21 the first page there's surface damages location and then GBH
22 under the notes.

23 DON HALL: Uh-huh.

24

--

1 BILL HARRIS: Do you know where I am? That shows
2 zero. I'm just curious about what kind of charges would be
3 there because in the previous one, again, we've already voted
4 on that, but there was a \$20,000, I think, long access and
5 pipeline. What is the difference?

6 DON HALL: You're looking at surface damage
7 location, you say?

8 BILL HARRIS: Yes.

9 DON HALL: Well, this...this well here is on the
10 coal company property, which we don't pay...they're our
11 lessor. We don't pay them anything for damages. The other
12 well we just did was on an individual surface owner. We pay
13 them damages for anything that we do.

14 BILL HARRIS: Typically, there would be an amount
15 there if you were on---?

16 DON HALL: If we're on someone other than the
17 company, yes.

18 BILL HARRIS: Yeah. Well, that would be...a couple
19 of items down on land contractor costs and notice.

20 DON HALL: That's...we have...we use contract
21 landmen to...to do the field work.

22 BILL HARRIS: Uh-huh.

23 DON HALL: This particular well here required less
24

1 field work than the other one did because the other one had a
2 number of...well, let's see, we're talking about the one just
3 before---.

4 BILL HARRIS: Yeah, I think there were fewer
5 people. I was just curious about where those numbers---.

6 JIM KAISER: The other one is a conventional
7 well---.

8 DON HALL: Yeah.

9 JIM KAISER: ---I think with a bunch of people in
10 it.

11 DON HALL: Bigger unit, yeah.

12 JIM KAISER: Bigger unit.

13 BILL HARRIS: Yeah. I noticed the depth was
14 different.

15 DON HALL: And the depth was different too. That's
16 the reason that the total costs on the AFE is...this is a CBM
17 well---.

18 BILL HARRIS: Yeah, I know about total...yeah,
19 yeah.

20 DON HALL: Yeah.

21 BILL HARRIS: Okay.

22 DON HALL: This was---.

23 BILL HARRIS: But I was just curious about those
24

1 particular ones. Okay, thank you.

2 DON HALL: Uh-huh.

3 BENNY WAMPLER: Other questions from members of the
4 Board?

5 (No audible response.)

6 BENNY WAMPLER: Do you have anything further?

7 JIM KAISER: Mr. Chairman, we'd ask that the
8 application be approved as submitted.

9 BENNY WAMPLER: Is there a motion?

10 JIM MCINTYRE: Motion to approve.

11 PEGGY BARBAR: I'll second.

12 BENNY WAMPLER: And second. Any further
13 discussion?

14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying
16 yes.

17 (All members signify by saying yes.)

18 BENNY WAMPLER: Opposed, say no.

19 (No audible response.)

20 BENNY WAMPLER: You have approval. The next item
21 on the agenda is a petition from Equitable Production Company
22 for pooling of coalbed methane unit VC-536644. This is
23 docket number VGOB-05-0920-1499. We'd ask the parties that
24

1 wish to address the Board in this matter to come forward at
2 this time.

3 JIM KAISER: Again, Mr. Chairman, Jim Kaiser and
4 Don Hall on behalf of Equitable Production Company. We do
5 have the revised set of Exhibits that we're going to pass out
6 for this one.

7 (Don Hall passes out revised Exhibits.)

8 JIM KAISER: I'll give everybody a second to kind
9 of look at that. Then before we get into our general
10 testimony, I'll ask Mr. Hall to explain what it was we
11 revised because it's more of a procedural thing than a
12 substantive thing. So---.

13 DON HALL: In Tract 2 in B...let's see...B-2 and B-
14 3 and E...in all Exhibits, Tract 2, Fairfield Limited
15 Partnership has replaced the Helen Johnson Estate.

16 JIM KAISER: Replaced the Helen Johnson Estate.

17 DON HALL: Through subsequent title research, we
18 determined that Helen Johnson had conveyed her interest to
19 Fairview Limited Partnership and they were inserted in the
20 slot where Mrs. Johnson was. Of course, they're leased to
21 CNX anyway. So---.

22 BENNY WAMPLER: Your...your plat doesn't have the
23 tracts numbers on them or at least the one I have doesn't

24

--

1 have the tract numbers. Can you tell us where...where we
2 locate...orient us here?

3 DON HALL: Okay. Tract 1 is the tract on which the
4 well was located. The larger portion of the unit and Tract 2
5 is the portion that's in the northeast corner of the unit.
6 I'm sorry, I should have numbered that. The larger tract---

7 BENNY WAMPLER: Does yours have the numbers on it,
8 Mr. Eide?

9 GARY EIDE: No, sir.

10 BENNY WAMPLER: Okay. We'll need you to submit
11 that.

12 DON HALL: Okay.

13 BENNY WAMPLER: Go ahead with your testimony.

14 DON HALL: Okay.

15

16 DON HALL

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KAISER:

19 Q. Okay, Mr. Hall, are you familiar with the
20 application we filed seeking to pool the interest in the
21 Tract 2 that are unleased to us but leased to CNX?

22 A. Yes.

23 Q. And does Equitable own drilling rights in

24

--

1 the unit involved here?

2 A. We do.

3 Q. And prior to the filing of the application,

4 were efforts made to contact each of the respondents and an

5 attempt made to work out a voluntary agreement?

6 A. Yes.

7 Q. What is the interest of Equitable under

8 lease in the gas estate in the unit?

9 A. We have 83.07% of the gas estate leased.

10 Q. And also 83.07% of the coal estate?

11 A. That's correct.

12 Q. And as we stated, what we're doing is

13 pooling the interest in Tract 2 that are currently leased to

14 CNX, correct?

15 A. Yeah, that's correct.

16 Q. Now, also, this particular well is outside

17 the interior window. So, as you are allowed to do either in

18 the permit you've already filed or in the permit that you

19 will file, you will apply for a location exception?

20 A. Yes.

21 Q. Okay.

22 A. And this well has already been permitted.

23 Q. Okay. So, the interest in both the gas

24

1 estate and the coal estate that remains unleased to Equitable
2 is 16.93%?

3 A. That's correct.

4 Q. Don't have any unknowns or unlocateables?

5 A. No.

6 Q. In your professional opinion, was due
7 diligence exercised to locate each of the respondents named?

8 A. Yes.

9 Q. Are the addresses and names set out in
10 revised Exhibit B to the application, the last known
11 addresses for the respondents?

12 A. They are.

13 Q. Are you requesting this Board to force pool
14 all unleased interest listed at revised Exhibit B-3?

15 A. Yes.

16 Q. Again, are you familiar with the fair market
17 value of drilling rights in the unit here and in the
18 surrounding area?

19 A. Yes.

20 Q. Could you advise the Board as to what those
21 are?

22 A. We pay a five dollar bonus on a five year
23 term with a one-eighth royalty.

24

--

1 Q. In your opinion, do the terms you just
2 testified to represent the fair market value of and the fair
3 and reasonable compensation to be paid for drilling rights in
4 this unit?

5 A. They do.

6 JIM KAISER: Mr. Chairman, I'd again ask that the
7 testimony regarding the statutory election options afforded
8 any unleased parties taken item 1497 earlier today be
9 incorporated.

10 BENNY WAMPLER: That will be incorporated.

11 Q. Mr. Hall, in this particular case, we have a
12 Exhibit EE. So, there's...escrow is not required because
13 there is a royalty split agreement between these parties.

14 A. That's correct.

15 Q. And who should be named the operator under
16 the force pooling order?

17 A. Equitable Production Company.

18 Q. And what is the total depth of the proposed
19 well?

20 A. 2097 feet.

21 Q. And the estimated reserves for this unit?

22 A. 300 million.

23 Q. Are you familiar with the well costs for
24

1 this well?

2 A. Yes.

3 Q. Has an AFE been reviewed, signed and
4 submitted to the Board as Exhibit C?

5 A. It has.

6 Q. In your opinion, does this AFE represent a
7 reasonable estimate of the well costs for this well?

8 A. Yes.

9 Q. Could you state for the Board both the dry
10 hole costs and complete well costs for this well?

11 A. Dry hole costs is \$130,049 and the completed
12 costs is \$298,430.

13 Q. Do these costs anticipate a multiple
14 completion?

15 A. They do.

16 Q. Does your AFE include a reasonable charge
17 for supervision?

18 A. Yes.

19 Q. In your professional opinion, would the
20 granting of this application be in the best interest of
21 conservation, the prevention of waste and the protection of
22 correlative rights?

23 A. It would.

24

1 JIM KAISER: Nothing further of this witness at
2 this time, Mr. Chairman.

3 BENNY WAMPLER: Any questions from members of the
4 Board?

5 JIM McINTYRE: I have a questions, Mr. Chairman, of
6 Mr. Hall. Did you say that that well was permitted?

7 BENNY WAMPLER: Yes, sir.

8 JIM McINTYRE: No further questions.

9 BENNY WAMPLER: Any other questions from members of
10 the Board?

11 PEGGY BARBAR: Mr. Wampler, may I ask a question,
12 please?

13 BENNY WAMPLER: Yes, Ms. Barbar.

14 PEGGY BARBAR: In the revised exhibits, you have a
15 Exhibit B-2. But in the original packet there is not a B-2.

16 DON HALL: The reason we added a B-2 is because we
17 had a change. The B-2 exhibit is for people that are
18 dismissed or added to the force pooling. That's the reason
19 you have a B-2. When we had filed it initially, we didn't
20 have any reason to have it. Now, since we've dismissed the
21 Helen Johnson Estate and added the Fairview Limited
22 Partnership, we had to create a B-2.

23 JIM KAISER: And that's a good question because you
24

1 don't see too many B-2s. You'll only see them when there are
2 revised exhibits.

3 PEGGY BARBAR: Okay.

4 JIM KAISER: Because the only purpose of it is is
5 to add or dismiss parties from the original application.

6 PEGGY BARBAR: Thank you very much.

7 BENNY WAMPLER: Other questions from members of the
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: Do you have anything further?

11 JIM KAISER: We'd ask that the application be
12 approved as submitted with the revised exhibits and then with
13 the submission of a new plat from the applicant numbering the
14 tracts.

15 BENNY WAMPLER: Is there a motion?

16 JIM MCINTYRE: Motion to approve.

17 BILL HARRIS: Second.

18 BENNY WAMPLER: Second. Any further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying
21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

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1 (No audible response.)

2 BENNY WAMPLER: You have approval.

3 DON HALL: Thank you.

4 BENNY WAMPLER: The next item on the agenda is a
5 petition from Columbia Natural Resources, LLC for a well
6 location exception for proposed well 825614, docket number
7 VGOB-05-0920-1500. We'd ask the parties that wish to address
8 the Board in this matter to come forward at this time.

9 JIM KAISER: Mr. Chairman and members of the Board,
10 Jim Kaiser and Robert Keenon on behalf of Columbia Natural
11 Resources, LLC. We'd ask that Mr. Keenon be sworn at this
12 time.

13 (Robert Keenon is duly sworn.)

14 BENNY WAMPLER: The record will show no others.
15 You may proceed.

16

17 ROBERT L. KEENON

18 having been duly sworn, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. KAISER:

22 Q. Mr. Keenon, if you'd state your name for the
23 Board, who you're employed by and in what capacity?

24

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1 A. Robert L. Keenon. I'm employed by Columbia
2 Natural Resources, LLC as a Senior Petroleum Engineer.

3 Q. And you've testified before the Board on
4 many occasions?

5 A. Yes.

6 Q. And do your responsibilities include the
7 land involved here and in the surrounding area?

8 A. They do.

9 Q. Now, are you familiar with the application
10 we filed seeking a location exception for well 825614?

11 A. Yes.

12 Q. And have all interested parties been
13 notified as required by Section 4(B) of the Virginia Gas and
14 Oil Board Regulations?

15 A. Yes, they have.

16 Q. Would you indicate for the Board the
17 ownership of the oil and gas underlying the unit for well
18 number 825614?

19 A. Pine Mountain Oil and Gas is 100% of the
20 ownership of the oil and gas.

21 Q. And does CNR have the right to operate the
22 reciprocal wells?

23 A. We operate the conventional reciprocal
24

1 wells.

2 Q. Okay. And then well that we see, everybody
3 will go to the plat...so, we're actually seeking an exception
4 from one existing well, one proposed well and then the other
5 two wells that you see that you see that say Piedmont Watkins
6 4 and Piedmont Watkins, I believe that's 2 are both CBM
7 wells, is that correct?

8 A. Well, one correction to that, as of Thursday
9 of last week, there are two existing wells. 25615 to TD last
10 week. It has not---.

11 Q. Oh, okay.

12 A. ---been completed yet.

13 Q. Okay. So, it's no longer proposed and that
14 is the well that's out at 2:00 o'clock on the typo, correct?

15 A. That is correct.

16 Q. Okay. So, I guess my point being don't be
17 fooled by the distances from this well to those two CBM
18 wells. We're actually seeking an exception from 21973 and
19 now also 82561, did you say?

20 A. That's correct.

21 Q. Okay. So, does CNR have the right to
22 operate both the reciprocal and conventional wells?

23 A. We do.

24

--

1 Q. Are there any correlative rights issues?

2 A. No.

3 Q. Okay. Now, explain for the Board why we
4 needed this location exception?

5 A. This location was chosen to...really to
6 minimize the disturbance of the surrounding terrain and also
7 to maximize the recovery of the mineral resources within the
8 existing wells. One of the conditions of this lease of which
9 we were a part interest was that we had to have pre-approved
10 coal sites, or pre-approved sites by the coal lessors and
11 sub-lessees prior to drilling these locations. On this
12 particular location, this particular site was approved and
13 recommended by the two coal lessors, ACIN and DBRD, as well
14 as the coal sub-lessees, Alpha Land and Resources, Maximum
15 Shared Resources and Paramount Coal of Virginia.

16 Q. Now, in the event this location exception
17 were not granted, would you project the estimated loss of
18 reserves?

19 A. 400 million standard cubic feet.

20 Q. And what's the total depth of the proposed
21 well?

22 A. 5,955 feet.

23 Q. Is the applicant requesting that this
24

1 location exception cover conventional gas reserves to include
2 the designated formations from the surface to the total depth
3 drilled?

4 A. We are.

5 Q. In your opinion, would the granting of this
6 location exception be in the best interest of preventing
7 waste, protecting correlative rights and maximizing the
8 recovery of gas reserves underlying the unit for 825614?

9 A. It would.

10 JIM KAISER: Nothing further of this witness at
11 this time, Mr. Chairman.

12 BENNY WAMPLER: Any questions from members of the
13 Board?

14 (No audible response.)

15 BENNY WAMPLER: Who owns the well that...the 8256
16 well that was just completed, is that your well?

17 ROBERT L. KEENON: That is our well.

18 BENNY WAMPLER: Okay.

19 ROBERT L. KEENON: And as a matter of a fact, we
20 had some prior discussions with Bob Wilson, Division of Mines
21 and Minerals, as far as the best way to approach this well.
22 Since there was no location...location exception required or
23 involved on 25615, we went ahead and permitted that well at
24

1 the time. This well required a location exception from both
2 it and a preexisting 21973.

3 BENNY WAMPLER: And who are the mineral owners on
4 the one that...the one listed as proposed well?

5 ROBERT L. KEENON: Pine Mountain Oil and Gas.

6 BENNY WAMPLER: Okay. And you have a lease for
7 them?

8 ROBERT L. KEENON: Yes, sir.

9 BENNY WAMPLER: Okay. Other questions from members
10 of the Board?

11 (No audible response.)

12 BENNY WAMPLER: Do you have anything further?

13 JIM KAISER: Mr. Chairman, we'd ask that the
14 application be approved as submitted.

15 BENNY WAMPLER: Is there a motion?

16 JIM MCINTYRE: Motion to approve.

17 PEGGY BARBAR: I second.

18 BENNY WAMPLER: Motion to approve and second. Any
19 further discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying
22 yes.

23 (All members signify by saying yes.)

24

1 BENNY WAMPLER: Opposed, say no.

2 (No audible response.)

3 BENNY WAMPLER: You have approval. Thank you.

4 Next is a petition from Hard Rock Exploration, Incorporated
5 for a well location exception for proposed well HRVAE #11,
6 docket number VGOB-05-0920-1501. We'd ask the parties that
7 wish to address the Board in this matter to come forward at
8 this time.

9 JIM KAISER: Mr. Chairman and members of the Board,
10 Jim Kaiser and Jim Stephens on behalf of Hard Rock
11 Exploration. We'd ask that Mr. Stephens be sworn in at this
12 time.

13 (Jim Stephens is duly sworn.)

14 BENNY WAMPLER: If the Board will recall, it was
15 either last month or the month before, Jim probably needs to
16 refresh my memory, we...he got a location exception for this
17 well. This is the second location exception we're getting
18 before it.

19

20

21

22

23

24

--

1 JIM STEPHENS

2 having been duly sworn, was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 QUESTIONS B MR. KAISER:

6 Q. Before we go through the standard testimony,
7 Jim, if you'd just kind of explain what happened and why
8 we're back.

9 A. I went through the spacing exceptions to get
10 an approved well and then we permitted. Once we went through
11 the permit process, Consol requested that we move the well to
12 get to solid coal in their #4 mine. We went back out and
13 submitted the well to get into solid coal.

14 Q. So, because the location and therefore the
15 distance from any well in which we're seeking an exception
16 changed, we need to come back and do this again, correct?

17 A. That's correct.

18 Q. Okay. And your responsibil...do your
19 responsibilities with Hard Rock, well...explain your job at
20 Hard Rock?

21 A. I'm Vice President of operations.

22 Q. And do your responsibilities include the
23 land involved here and in the surrounding area?

24

--

1 A. Yes.

2 Q. And you're familiar with this application
3 that we filed seeking this location exception for well HRVAE
4 #11?

5 A. Yes.

6 Q. And have all interested parties been
7 notified as required by Section 4(B) of the Virginia Gas and
8 Oil Board Regulations?

9 A. Yes.

10 Q. Would you indicate for the Board the
11 ownership of the oil and gas underlying this well?

12 A. It would be C. L. Ritter and Virginia Gas,
13 Frank Henderson, or Norfolk---.

14 Q. Appalachian Energy---?

15 A. Yeah.

16 Q. ---and Norfolk and Southern Railroad?

17 JIM KAISER: This was also, Mr. Chairman and Board
18 members, the well that we force pooled last month.

19 Q. So, all the oil and gas interest within the
20 180 acre square within the Pilgrim's Knob unit is either
21 under lease to Hard Rock, voluntary lease, or has been...is
22 under a Board order and pooled with Hard Rock named as the
23 operator, is that correct?

24

--

1 A. That's correct.

2 Q. Okay. And Mr. Henderson has been notified
3 again of this change in the location and he's okay with it?

4 A. Yes.

5 Q. Okay. Explain again why we had to get this
6 exception.

7 A. To get into a solid block of coal
8 where...where the well was previously...which was the best
9 place on the ground. It was in a opening in the, I think,
10 the BP #4 mine. We just moved it to get to a solid block of
11 coal.

12 Q. All right. In the event this location
13 exception were not granted, would you project the estimated
14 loss of reserves?

15 A. It's 300 million.

16 Q. And the total depth of this proposed well?

17 A. 4900.

18 Q. Are you requesting this location exception
19 cover conventional gas reserves to include designated
20 formations from the surface to the total depth drilled?

21 A. Yes.

22 Q. In your opinion, would the granting of this
23 location exception be in the best interest of preventing
24

1 waste, protecting correlative rights and maximizing the
2 recovery of the gas reserves underlying the unit for HRVAE
3 #11?

4 A. Yes.

5 JIM KAISER: Nothing further of this witness at
6 this time, Mr. Chairman.

7 BENNY WAMPLER: What do you propose to do about the
8 last month's hearing?

9 JIM KAISER: I talked to Bob about that and---.

10 BENNY WAMPLER: You need to withdraw it, I think.

11 JIM KAISER: Yeah. Do I just need to send you a
12 letter withdrawing it?

13 BENNY WAMPLER: Yeah. Listing that docket number.

14 JIM KAISER: So, we don't have two of them out
15 there.

16 BENNY WAMPLER: Right.

17 JIM KAISER: Okay. Other questions from members of
18 the Board?

19 (No audible response.)

20 BENNY WAMPLER: You're agreeing to do that?

21 JIM KAISER: Yes.

22 BENNY WAMPLER: Any other questions from members of
23 the Board?

24

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1 MASON BRENT: Mr. Chairman, just one question.
2 BENNY WAMPLER: Mr. Brent.
3 MASON BRENT: Which well did we get an exception
4 from the last time?
5 MR. STEPHENS: The AE---
6 JIM KAISER: EAH-19.
7 MASON BRENT: Last month?
8 JIM KAISER: I believe so, yeah. It's the same
9 well that we got the exception from the last time. It's just
10 a different distance.
11 MASON BRENT: Different...right, okay.
12 BENNY WAMPLER: Other questions?
13 (No audible response.)
14 BENNY WAMPLER: Do you have anything further?
15 (No audible response.)
16 JIM KAISER: We'd ask that the application be
17 approved as submitted, Mr. Chairman.
18 BENNY WAMPLER: Is there a motion?
19 JIM McINTYRE: Motion to approve it, Mr. Chairman.
20 BENNY WAMPLER: Do I have a second?
21 PEGGY BARBAR: Second.
22 BILL HARRIS: Second.
23 BENNY WAMPLER: Motion and second. Any further
24

1 discussion?

2 (No audible response.)

3 BENNY WAMPLER: All in favor, signify by saying
4 yes.

5 (All members signify by saying yes.)

6 BENNY WAMPLER: Opposed, say no.

7 (No audible response.)

8 BENNY WAMPLER: You have approval. The next item
9 on the agenda is a petition from Hard Rock Exploration,
10 Incorporated for the pooling of a conventional gas unit HRVAE
11 #12, Garden District, docket number VGOB-05-0920-1502. We'd
12 ask the parties that wish to address the Board in this matter
13 to come forward at this time.

14 JIM KAISER: Mr. Chairman, again, Jim Kaiser and
15 Jim Stephens on behalf of Hard Rock. At this time, we would
16 ask the Board that this application be continued until next
17 month's docket. We've got a lot of different issues. This
18 is kind of a different unit. We've got...60% of the unit
19 involves a preestablished existing 640 acre voluntary unit.
20 We're working out some things with the parties that are
21 involved in that upper northern half of the unit. Hopefully,
22 by next month we'll be able to...we'll have voluntary
23 agreements and we'll be able to withdraw this application.

24

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1 BENNY WAMPLER: It will be continued. The next
2 item on the agenda is a petition from Dart Oil and Gas
3 Corporation for pooling of Abbs Valley conventional gas unit
4 27, Sherman #1 in the Clearfork District of Tazewell County,
5 docket number VGOB-05-0920-1503. We'd ask the parties that
6 wish to address the Board in this matter to come forward at
7 this time.

8 JIM KAISER: Mr. Chairman and members of the Board,
9 Jim Kaiser on behalf of Dart Oil and Gas. Our witnesses in
10 this matter will be Mr. Bob Powell as to land, and Mr. Mike
11 Jaskoski as to operations. This is Mr. Jaskoski's first time
12 testifying before---.

13 BENNY WAMPLER: Go ahead and swear them in.
14 (Bob Powell and Michael P. Jaskoski is duly sworn.)

15 BENNY WAMPLER: We'll start with Mr. Powell.

16

17 BOB POWELL
18 having been duly sworn, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. KAISER:

22 Q. Mr. Powell, if you'd state your name for the
23 Board, who you're employed by and in what capacity.

24

--

1 A. Yes. My name is Bob Powell. I'm employed
2 by Dart Oil and Gas as a consulting landman. My
3 responsibilities include leasing, title, right-of-way and all
4 the land activities in the Appalachia.

5 Q. Okay. Now, this well is in...it's a
6 conventional gas well and it's in Tazewell County and it's in
7 the Abbs Valley Gas Field, which we established a Field Rule
8 for...refresh my memory in May or June?

9 A. I think it was May.

10 Q. May.

11 A. April or May, one of the two months.

12 Q. Okay. And what we did was, we took a
13 certain area and we formed, I believe, it was forty-four 200
14 acre squares, right?

15 A. Yes, sir.

16 Q. Okay. And this unit represents one of those
17 forty-four squares. We're here today to pool just a few
18 unleased interest within that square, correct?

19 A. Yes, sir.

20 Q. Okay. And your responsibilities with Dart
21 include the land involved here and in the surrounding area?

22 A. Yes, sir.

23 Q. And you're familiar with Dart's application
24

1 seeking to pool any unleased interest which was dated August
2 the 19th, 2005?

3 A. Yes.

4 Q. And does Dart own drilling rights in the
5 unit involved here?

6 A. Yes, we do.

7 Q. And prior to filing the application, did you
8 make efforts to contact each of the respondents in the unit
9 and make an attempt to work out an agreement regarding the
10 development of the unit?

11 A. Yes, we did.

12 Q. Okay. And what is the interest...what was
13 the...well, we've got revised exhibits too, don't we?

14 A. Right.

15 Q. We already submitted to the Board?

16 A. Right.

17 JIM KAISER: Okay. Let me go over a couple of
18 other things before we get further into his testimony. The
19 well name on this well changed a couple of times. We talked
20 with Diane Davis in Bob Wilson's office. I have...I'm going
21 to file these with you all. This is the...a new set of
22 originals with the right name. Diane said just...and Bob
23 said just present them at the hearing. So, I'll give you

24

--

1 these. Don't let me forget to give you these. Then we also
2 filed a revised...early filed a revised set of exhibits that
3 hopefully you have in your package that should say "Revised
4 8/30/05". Does everybody have that? Prefiled revised which
5 reflect some additional leases we picked up. I'll get your
6 Bs. They don't say revised?

7 BENNY WAMPLER: No. Does yours, Gary?

8 GARY EIDE: I'm not sure I know what we're looking
9 for here. I've got this---.

10 BENNY WAMPLER: He's saying under your Exhibit
11 B...go to Exhibit B, do you have revised at the top? I
12 don't. I doubt you do.

13 GARY EIDE: No.

14 JIM KAISER: No, he doesn't either. Well, okay,
15 here is everything revised.

16 BENNY WAMPLER: Do we need to get copies or do you
17 want to pass them around? What's your pleasure.

18 MASON BRENT: Whatever you say, Mr. Chairman.

19 JIM KAISER: I'm pretty darn certain that we sent
20 them to Diane. They're dated 8/30, we sent them early. I
21 don't know why they didn't make it into the packages. But
22 what we'll do, you can take the one that you have with the
23 application and we'll identify the additional leases we've
24

--

1 picked up. That and the well name is the only thing that has
2 changed. We filed it as Sherman #1. It's now Sherman, et
3 al, 04---.

4 BOB POWELL: 042701.

5 JIM KAISER: Okay.

6 BENNY WAMPLER: What were the changes...what are
7 the changes in this? How extensive are they?

8 JIM KAISER: What is there probably three or four
9 additional leases you've picked up?

10 BOB POWELL: We picked up two additional leases.

11 JIM KAISER: Two additional leases.

12 BOB POWELL: On Exhibit B-3, we picked up lease
13 number...Tract #10 and Tract #20. And our outstanding leases
14 are 8 and 12, 13 and 18.

15 JIM KAISER: Do you want me to go make copies of
16 it?

17 BENNY WAMPLER: Yeah, let's do that. You don't
18 need to make copies of the entire revised thing, but just
19 back here on your---.

20 JIM KAISER: Just the exhibits?

21 BENNY WAMPLER: Just the exhibits back here. We'll
22 just recess for about five minutes.

23 (Recess.)

24

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1 BENNY WAMPLER: Back on the record.

2 JIM KAISER: Back on the record. Okay, everybody
3 should have a set of revised exhibits in front of them now.
4 We'll go back to Mr. Powell.

5

6 BOB POWELL

7 DIRECT EXAMINATION RESUMES

8 QUESTIONS BY MR. KAISER:

9 Q. Mr. Powell, at the time that we filed the
10 application, the interest...remember these are 200 acre
11 square units, right?

12 A. Yes, sir.

13 Q. And the interest that was under lease in the
14 unit at the time of the application was 91...under lease was
15 91.98?

16 A. Yes, it was.

17 Q. And at this time...and since the filing of
18 the application, you've continued to attempt to reach
19 voluntary agreements with unleased parties and the interest
20 that's leased within the unit now is 93.23%, is that correct?

21 A. That's correct.

22 Q. Okay, could you just point out the
23 additional leases that you picked out...picked up the two
24

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1 additional leases?

2 A. We leased Everett Bailey and Veda Cook
3 Bailey.

4 Q. And what tracts are those?

5 A. Tract #10.

6 Q. Tract 10.

7 A. And we leased Kenneth and Carol Jackson,
8 it's Tract #20.

9 Q. So, our correct percentages of leased and
10 unleased would now be 93.23% leased and 6.77% unleased,
11 correct?

12 A. Yes, that's correct.

13 Q. Okay. And this is a 20 tract unit, correct?

14 A. Yes, sir.

15 Q. And we do not miraculously have any unknown
16 and unlocateables within the unit, is that correct?

17 A. Yes, sir.

18 Q. In your professional opinion, was due
19 diligence exercised to locate each of the respondents names
20 in Exhibit B---?

21 A. Yes.

22 Q. ---or revised Exhibit B? Are the addresses
23 set out in revised Exhibit B the last known addresses for the
24

1 respondents?

2 A. Yes, they are.

3 Q. Are you requesting this Board to force pool
4 all the unleased interest that are listed at revised Exhibit
5 B-3?

6 A. Yes.

7 Q. Now, are you familiar with the fair market
8 value of drilling rights in this unit and in the surrounding
9 area?

10 A. Yes.

11 Q. Could you advise the Board as to what those
12 are?

13 A. Twenty dollars an acre for a five year paid
14 up lease or a minimum of one hundred dollars.

15 Q. In your opinion, do the terms you just
16 testified to represent the fair market value of and the fair
17 and reasonable compensation to be paid for drilling rights
18 within this unit?

19 A. Yes, it is.

20 Q. And as to that 6.77% that remains unleased,
21 do you agree that they be allowed the following statutory
22 options with respect to their ownership interest within the
23 unit: 1) participation; 2) a cash bonus of five dollars per
24

1 net...well, actually a paid up lease of...a five year paid up
2 lease at twenty dollars an acre, which I guess divides out to
3 four dollars per year per acre or a minimum of a \$100 plus a
4 one-eighth of eight-eighths royalty?

5 A. Yes.

6 JIM KAISER: Does that make sense to everybody?

7 (No audible response.)

8 Q. Or 3) in lieu of a cash bonus and one-eighth
9 of eight-eighths royalty share in the operation of the well on
10 a carried basis as a carried operator under the following
11 conditions: such carried operator should be entitled to the
12 share of production from the tracts pooled accruing to his
13 interest exclusive of any royalty or overriding royalty
14 reserved in any leases or assignments thereof or agreement
15 relating thereto of such tracts, but only after the proceeds
16 applicable to their share equal 300% of the share of such
17 costs applicable to the interest of a carried operator of a
18 leased tract or portion thereof; or B) 200% of the share of
19 such costs applicable to the interest of the carried operator
20 of an unleased tract or portion thereof?

21 A. Yes.

22 Q. Do you recommend that the order provide that
23 elections by respondents be in writing and sent to the

24

--

1 applicant at Dart Oil and Gas Corporation, P. O. Box 177,
2 Mason, Michigan, zip code, 48854, Attention: Roger McKinley?

3 A. Yes.

4 Q. Should this be the address for all
5 communications with the applicant concerning any force the
6 pooling order?

7 A. Yes.

8 Q. Do you recommend that if no written election
9 is properly made by a respondent, then such a respondent
10 should be deemed to have elected the cash option in lieu of
11 participation?

12 A. Yes.

13 Q. Should unleased respondents be given 30 days
14 from the record...from the date that they receive the
15 recorded Board order to file their written elections?

16 A. Yes.

17 Q. If an unleased respondent elects to
18 participate, should they be given 45 days to pay for their
19 proportionate share of well costs?

20 A. Yes.

21 Q. Does the applicant expect that party
22 electing to participate to pay in advance that party's share
23 of actual completed well costs?

24

--

1 A. Yes.

2 Q. Should the applicant be allowed 120 days
3 following the recordation date of the Board and thereafter,
4 annually on that date until production is achieved to pay or
5 tender any delay rental or cash bonus becoming due under the
6 force pooling order?

7 A. Yes.

8 Q. Do you recommend that the order provide that
9 if a respondent elects to participate but fails to pay their
10 proportionate share of well costs, then their election to
11 participate should be treated as having been withdrawn and
12 respondent should be treated as deemed to have leased?

13 A. Yes.

14 Q. Do you recommend that where a respondent
15 elects to participate, but defaults in regard to the payment
16 of well costs, any cash sum that's due that respondent be
17 paid within sixty days after the last date on which that
18 respondent could have paid those well costs?

19 A. Yes.

20 Q. In this particular case, it's a conventional
21 well. We don't have any unknown or unlocateable interest.
22 So, the Board does not need to establish an escrow account,
23 is that correct?

24

--

1 A. Yeah, that's correct.

2 Q. And who should be named the operator under
3 any force pooling order?

4 A. Dart Oil and Gas Corporation.

5 JIM KAISER: That's all I have of this witness at
6 this time, Mr. Chairman.

7 BENNY WAMPLER: Any questions from members of the
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: Call your next witness.

11

12 MICHAEL JASKOSKI

13 having been duly sworn, was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. KAISER:

17 Q. Mr. Jaskoski, you're employed by Dart in
18 what capacity?

19 A. Drilling and completion superintendent.

20 Q. Now, this is your...at least in recent
21 history, I guess, your first time testifying before the
22 Board. Could you just briefly go over your professional
23 experience for me?

24

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1 A. I've been involved in the industry for
2 approximately thirty years, twenty years in the Appalachian
3 Basin. I transferred from the Michigan office Coastal Oil
4 and Gas' operations in Big Stone Gap, Virginia in 1985 as
5 their production superintendent. In 1991, Coastal was
6 purchased by Equitable Resources. I transferred over to
7 Equitable Resources. I worked for them as a operations
8 superintendent and eventually as Virginia Operations Manager
9 out of Big Stone Gap in the Nora Field offices. In 19...1991
10 or 1996 until 2002, I was drilling...manager of drilling and
11 work orders for Equitable out of their Kingsport office. In
12 2002, I went to work for Dart Oil and Gas as their drilling
13 and completion superintendent drilling or responsible mainly
14 for Virginia and some operations in Kansas and Michigan.

15 Q. And would you say it's probably fair to say
16 that in your years in the Appalachian Basin you've been
17 involved in working with over a 1000 wells for them?

18 A. I would think so. Several 100 at least.

19 Q. Okay. I mean, your responsibilities do
20 include the land involved here and in the surrounding area?

21 A. Yes, it does.

22 Q. And what's the total depth of this proposed
23 well?

24

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1 A. 4500 feet.

2 Q. And the estimated reserves for the unit?

3 A. 750 million cubic feet.

4 Q. And when we take a look at the plat,

5 remember now that when you were for the field rules this is

6 sort of a field that's established on a---.

7 A. Northeast to southwest.

8 Q. ---northeast to southwest direction and

9 that's why you see sort of the tilt in the unit. You'll also

10 notice that the location is outside the interior window in

11 the 300 foot set back area, is that correct?

12 A. Yes, it is.

13 Q. And the field rule as was promulgated and

14 approved and executed, does allow for the Director of the DGO

15 to provide for a location exception in the permitting

16 process, is that correct?

17 A. Yes.

18 Q. So, that will be taken care of in that

19 process, if it hadn't already been. What are the estimated

20 reserves for this unit?

21 A. 750 million cubic feet.

22 Q. And you're familiar with the well costs for

23 this well?

24

1 A. Yes, I am.

2 Q. Has an AFE been reviewed, signed and
3 submitted to the Board as Exhibit C?

4 A. Yes, it has.

5 Q. Was this AFE prepared by an engineering
6 department knowledgeable in the preparation of AFEs and
7 knowledgeable in regard to well costs in this particular
8 area?

9 A. Yes, it was.

10 Q. In your opinion, does it represent a
11 reasonable estimate of the well costs?

12 A. Yes, it does.

13 Q. And could you state for the Board what those
14 are?

15 A. The dry hole costs are \$379,360 and
16 completed well cost is \$520,685.

17 Q. And do these costs anticipate a multiple
18 completion?

19 A. Yes, they do.

20 Q. Does your AFE include a reasonable charge
21 for supervision?

22 A. Yes, it does.

23 Q. And in your professional opinion, would the
24

1 granting of this application be in the best interest of
2 conservation, prevention of waste and the protection of
3 correlative rights?

4 A. Yes, it would.

5 BENNY WAMPLER: I'm checking to see if you have a
6 signed AFE in here. We don't...our copy doesn't have one.

7 SHARON PIGEON: Unh-huh.

8 BENNY WAMPLER: No. You'll need to submit that.
9 It needs to be signed and dated.

10 MICHAEL JASKOSKI: Yeah, I thought it had been.

11 BOB POWELL: Yeah, we thought it had.

12 JIM KAISER: We'll get that to you, Mr. Chairman.

13 BENNY WAMPLER: Okay.

14 JIM KAISER: Nothing further of this witness at
15 this time.

16 BENNY WAMPLER: Questions from members of the
17 Board?

18 (No audible response.)

19 BENNY WAMPLER: Do you have anything further?

20 JIM KAISER: Mr. Chairman, we'd ask that the
21 application be approved as submitted with the revised
22 exhibits and the revised well name.

23 BENNY WAMPLER: Is there a motion?

24

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1 JIM McINTYRE: So moved, Mr. Chairman.

2 BENNY WAMPLER: Motion for approval. Is there a
3 second?

4 PEGGY BARBAR: I second.

5 BENNY WAMPLER: Motion for approval and second.
6 Any further discussion?

7 (No audible response.)

8 BENNY WAMPLER: All in favor, signify by saying
9 yes.

10 (All members signify by saying yes.)

11 BENNY WAMPLER: Opposed, say no.

12 (No audible response.)

13 BENNY WAMPLER: You have approval. Thank you.

14 JIM KAISER: Mr. Chairman, if I might add, I've got
15 a signature page right here.

16 BENNY WAMPLER: Okay.

17 JIM KAISER: For some reason it didn't get into
18 the...it's kind of different on the cover page. Why don't
19 you just take that.

20 BENNY WAMPLER: Okay. Give that to Mr. Eide for
21 the record.

22 GARY EIDE: Thank you.

23 JIM KAISER: You're dismissed.

24

1 BENNY WAMPLER: Oh, I'm sorry. Thank you.

2 BENNY WAMPLER: The next item on the agenda is the
3 Board will receive corrective testimony from Appalachian
4 Energy regarding previously pooling unit AE-149, docket
5 number VGOB-05-0621-1472. We'd ask the parties that wish to
6 address the Board in this matter to come forward at this
7 time.

8 JIM KAISER: Mr. Chairman, Jim Kaiser on behalf of
9 Appalachian Energy. I guess I'm going to be the witness in
10 this one. I guess I need to be sworn.

11 BENNY WAMPLER: Okay.

12 (Jim Kaiser is duly sworn.)

13 JIM KAISER: This is a well that we pooled back in
14 June. Then when we...as you know, we go back and hopefully
15 within forty-eight hours try to send a draft order to Bob's
16 office with any changes, you know, to reflect the testimony
17 that occurred at the hearing. In this particular case, our
18 draft order and our testimony...now, wait a minute. Our
19 draft order and our exhibits reflected that the percentage of
20 the unit that was under lease was 96.3595% with 3.6788%
21 unleased and to be pooled, which is correct. So, the draft
22 order and the exhibits are correct. Our testimony, which was
23 incorrect, stated that we had 96.7491% of the unit leased and
24

1 needed to pool 3.516%. So, it would be my testimony, and
2 we'd like to correct that so we can get this order executed
3 and recorded, would be the lease percentage 96.3595 and
4 unleased percentage 3.6788.

5 BENNY WAMPLER: Okay. Any questions from members
6 of the Board?

7 (No audible response.)

8 BENNY WAMPLER: Is there a motion for approval?

9 JIM MCINTYRE: Motion to approve, Mr. Chairman.

10 PEGGY BARBAR: I'll second.

11 BENNY WAMPLER: I have a second. Any further
12 discussion?

13 (No audible response.)

14 BENNY WAMPLER: All in favor, signify by saying
15 yes.

16 (All members signify by saying yes.)

17 BENNY WAMPLER: Opposed, say no.

18 (No audible response.)

19 BENNY WAMPLER: You have approval. The next item
20 on the agenda is a petition from CNX Gas Company, LLC for
21 disbursement of funds from escrow and authorization for
22 direct payment of royalties on Tract 3, unit N-39, docket
23 number VGOB-00-0321-0775-01. We'd ask the parties that wish
24

1 to address the Board in this matter to come forward at this
2 time.

3 MARK SWARTZ: Mark Swartz and Anita Duty, unless
4 she changed her name again.

5 ANITA DUTY: No.

6 MARK SWARTZ: Okay.

7 BENNY WAMPLER: Are you going to have Anita as a
8 witness?

9 MARK SWARTZ: Yes.

10 BENNY WAMPLER: Go ahead and be sworn. State your
11 name for the record please, Mr. Franks.

12 J. C. FRANKS: J. C. Franks.

13 BENNY WAMPLER: We'll get you folks sworn in.

14 (J. C. Franks and Anita Duty are duly sworn.)

15 BENNY WAMPLER: The record will show no others.
16 You may proceed, Mr. Swartz.

17

18 ANITA DUTY

19 having been duly sworn, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23 Q. Anita, you need to state your name for us on

24

--

1 the record.

2 A. Anita Duty.

3 Q. Who do you work for?

4 A. CNX Gas Company.

5 Q. What do you do for them that pertains to why
6 we're here today?

7 A. I kind of take care of the escrow accounting
8 and other things.

9 Q. Okay, okay. With regard to the first item
10 that the Chairman just called, which is N-39, correct?

11 A. Uh-huh.

12 Q. Did you do the accounting work to prepare
13 for this hearing?

14 A. Yes.

15 Q. Okay. What records did you have available
16 to you and what did you do?

17 A. I had our bank records that showed the
18 interest and deposits and I compared that to the deposits
19 that our, I guess, lease management company pays into the
20 escrow account.

21 Q. Okay. And when you compared them, were you
22 able to bring them into agreement?

23 A. Yes.

24

1 Q. So, there are no adjustments that need to be
2 made to escrow account as far as you're concerned?

3 A. No.

4 Q. Okay. And have you provided the Board with
5 both an Exhibit EE, which identifies the folks who have split
6 agreements that we're dealing with today in tract N-39,
7 correct?

8 A. Yes.

9 Q. And have you also provided the Board with a
10 Exhibit A spreadsheet which deals with percents and dollars
11 that are going to be going to those people?

12 A. Yes.

13 Q. Okay. And as usual, is the dollar amount
14 really just an illustration because by the time the
15 disbursement is made, the dollars might change but the
16 percentage would be correct?

17 A. Yeah.

18 Q. Okay. So, in drafting an order, the Board
19 should use the percentages for the ultimate disbursement?

20 A. Yes.

21 Q. Okay. After this disbursement is made, is
22 there going to be any need for this escrow account with
23 regard to N-39 to be maintained?

24

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1 A. No, this will close the account.

2 Q. Okay. So, the only tract escrowed with
3 regard to N-39 is Tract 3?

4 A. Yes.

5 Q. Okay. And what...who are the parties that
6 have reached a split agreement here?

7 A. The first party that we'll be doing a split
8 with be the Metcalfe Estate and Reserve Coal Properties.
9 There is a little thing different about this one. It's 75%
10 for Metcalfe and 25% for Reserve Coal. Normally, we just
11 have a 50/50.

12 Q. And is that a written agreement?

13 A. Yes.

14 Q. Okay.

15 A. And then we have Ruth Culbertson and Reserve
16 Coal Properties and they will split 50/50; and Reserve Coal
17 Properties and Clyborne will be splitting their half 50/50.

18 Q. And those splits are reflected on Exhibit A,
19 correct?

20 A. Yes.

21 Q. Okay. And with regard to the percentages
22 and the owners percent of escrow, is that the list of
23 percentages that the order should reflect?

24

1 A. Yes.

2 Q. Okay. And then at the time you balanced the
3 account, does the last column represent the dollars?

4 A. Yes.

5 MARK SWARTZ: That's all I have.

6 BENNY WAMPLER: And that was balanced effective
7 when? What was the date?

8 ANITA DUTY: That was July of 2005.

9 BENNY WAMPLER: Okay.

10 MARK SWARTZ: That's all I have.

11 BENNY WAMPLER: Mr. Franks.

12 J. C. FRANKS: I have some sheets here that I have
13 gone over, various reports that have been made to me because
14 I received no reports of production for portions of this at
15 all until I go to the Board to get the answers. Let me pass
16 some of these out here so you can see what I'm talking about.
17 (J. C. Franks passes out some documents.)

18 BENNY WAMPLER: She won't need it. She won't need
19 it. You can give Mr. Swartz one, if you don't mind.

20 J. C. FRANKS: I will have to give you an
21 explanation on my numbers. Some of the reports I received
22 required modification. They were in error. When that was
23 discovered, we discussed back and forth with the CNX office
24

1 and made some adjustments. Also, my figures in here are from
2 the VGOB records for production and using their percentage.
3 I use as a deduct 66 cents. They're using a different
4 deduct. So, their numbers should be a little different. So,
5 this...what my first line is I received notice on March of
6 '03 and reducing that to...that 75% we're talking about is
7 the balance that would have been from that 37. In other
8 words, the balance in escrow is \$1443 and a portion due for
9 that was \$37 only. But...then each one of these...in
10 December of '04, I received another report. For this report
11 she has here, for this breakout, 7/05, there was some
12 revisions in that. The VGOB records only go through
13 production of 3/05. That would be 5/05 in relation to the
14 7/05. They're two months short, in other words. The Board
15 did not have escrow information beyond March, or production
16 information. I don't know if the money was in there or not.
17 But they had just received the 3rd. You see their amount is
18 larger than the 7/05 even though there's two month's
19 different. But there's some differences in that deduct
20 amount also and interest. But it should have been greater
21 considering interest and things anyway. This is flat numbers
22 here with no interest applied.

23 BENNY WAMPLER: Well, your numbers appear 7/05 to

24

--

1 coincide with their at 7/05 at 7/31.

2 J. C. FRANKS: Yeah, 7/31/05 is 509. But the
3 larger number at March is two month's short with no interest.
4 But now they're taking a larger deduct, which has to be
5 adjusted to match the Court requirements and other
6 agreements. That would be done separately, I'm assuming
7 here. We'll have to---.

8 BENNY WAMPLER: That's not a part of what the Board
9 does.

10 J. C. FRANKS: Right.

11 BENNY WAMPLER: That's between you parties.

12 J. C. FRANKS: Right. But there was four
13 months...four pools that the Board had no...that the office
14 had no report of production. Yet on two of those production
15 was paid for to the J. H. Franks' Estate, which is involved
16 in the same pool. The other two, I have no records of at
17 all.

18 BENNY WAMPLER: Ms. Duty, do you have a response?

19 MARK SWARTZ: I mean, our numbers are the same.

20 BENNY WAMPLER: Well, his...his point, I think, is
21 at March it was higher and in July it's lower.

22 ANITA DUTY: Well, that March...where it's showing
23 March 2005, that actually...what you have to keep in mind is

24

--

1 that production is paid two months behind. So, actually the
2 July that we're showing as of July is really from May
3 production.

4 J. C. FRANKS: Uh-huh, two months short.

5 ANITA DUTY: Right. Two months behind. Not...I
6 mean, it's not that it's short. You know, that's just...it
7 takes time to, you know---.

8 BENNY WAMPLER: Right, right, right. Yeah, you're
9 a sixty day delay.

10 J. C. FRANKS: Right.

11 ANITA DUTY: Right. So, the balance...that 2768.90
12 is the balance I have showing for July, or say August.

13 MARK SWARTZ: I guess I don't understand.

14 ANITA DUTY: That just don't have any interest.

15 J. C. FRANKS: That would be for May's production?

16 ANITA DUTY: Yeah. What you're showing here is for
17 July.

18 J. C. FRANKS: Right. The balance.

19 ANITA DUTY: Uh-huh.

20 J. C. FRANKS: That's what I would have thought.

21 BENNY WAMPLER: And see the key here, what we would
22 be approving, if we approve this, is that we're approving the
23 disbursement of escrow of this amount which you've balanced

24

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1 with at that 2716.38. That would pay out that account. Then
2 from that point forward, you can get the checks directly or
3 whoever represents, however it's set up.

4 J. C. FRANKS: Right. And then the adjustments,
5 due to the requirements of the Court, up to, what is it '95,
6 and then later by agreements between us, there's a different
7 amount. I used 66 cents because it's 68 now with our
8 contract. The earlier was 62.

9 BENNY WAMPLER: Right. Just understand the
10 Board---.

11 J. C. FRANKS: That will be a personal---.

12 BENNY WAMPLER: That's...that's right. That's
13 between the parties there.

14 J. C. FRANKS: Okay.

15 BENNY WAMPLER: This is just an agreement on paying
16 out what's in escrow at---.

17 J. C. FRANKS: Right.

18 BENNY WAMPLER: ---at a particular point in time.

19 J. C. FRANKS: We would have to balance out the
20 difference on this.

21 BENNY WAMPLER: That's exactly right. Yes, sir.

22 J. C. FRANKS: Uh-huh. That's...that's okay.

23 BENNY WAMPLER: Okay. So, with this you're
24

1 requesting the payout the number 2716.66 that's effective
2 with your balance of 7/31/05? Does that summarize your
3 request?

4 ANITA DUTY: Yes. We need to make sure that it
5 goes by percent of escrow. Because that account is going to
6 be closed.

7 BENNY WAMPLER: I understand.

8 ANITA DUTY: So, we don't---.

9 MARK SWARTZ: I mean, we actually...I mean, you
10 know, we have to do these as of a point in time.

11 BENNY WAMPLER: Right.

12 MARK SWARTZ: So, the 2716.66, which is being used
13 to allocate dollars---.

14 BENNY WAMPLER: Right.

15 MARK SWARTZ: ---was actually a 6/24/05 balance
16 when we did the accounting work. Okay, currently, we're
17 showing a balance of 2813.86 through August the 25th. Again,
18 that's two months...you know, but...I mean, it's always a
19 moving target. But we had to pick a date---.

20 BENNY WAMPLER: Right.

21 MARK SWARTZ: ---and that time that we picked is
22 the 2716.66, just so we've got a date, is actually a 6/24
23 accounting date.

24

--

1 BENNY WAMPLER: And what...what you're asking the
2 Board to do is to pay out the escrow account---?
3 MARK SWARTZ: In its entirety---.
4 BENNY WAMPLER: Right.
5 MARK SWARTZ: ---using the percentages---.
6 BENNY WAMPLER: Right.
7 MARK SWARTZ: ---listed in the owner's percent of
8 escrow.
9 BENNY WAMPLER: Right.
10 MARK SWARTZ: The pont of the accounting
11 information is simply to allow Anita to indicate to you that
12 she has done the comparison of (inaudible) royalty payment
13 records with the bank's records to make sure that they're in
14 agreement. That is a fact. Through that date, actually, you
15 know, they were in agreement and did not require an
16 adjustment.
17 BENNY WAMPLER: And you're in agreement with that?
18 J. C. FRANKS: Yeah. The others...the extraneous
19 will have to be---.
20 BENNY WAMPLER: Sure, worked out.
21 J. C. FRANKS: ---worked out.
22 MARK SWARTZ: They have a signed agreement, which
23 they acknowledge and they're going to deal with it.

24

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1 BENNY WAMPLER: Okay. All right. Is there a
2 motion?
3 JIM McINTYRE: Motion to approve.
4 PEGGY BARBAR: I second.
5 BENNY WAMPLER: Motion and second. Any further
6 discussion?
7 (No audible response.)
8 BENNY WAMPLER: All in favor, signify by saying
9 yes.
10 (All members signify by saying yes.)
11 BENNY WAMPLER: Opposed, say no.
12 (No audible response.)
13 BENNY WAMPLER: You have approval on that. The
14 next item is a petition from CNX Gas Company, LLC for the
15 disbursement of funds from escrow and authorization for
16 direct payment of royalties on Tract 2, unit N-40, docket
17 number VGOB-93-0420-0358-01. We'd ask the parties that wish
18 to address the Board in this matter to come forward at this
19 time.
20 MARK SWARTZ: We've got some slightly revised
21 exhibits here. Just to alert you, the change...the exhibit
22 we gave you originally...Mr. Franks, the exhibit we gave you
23 originally, the tract column had just Tract 2 and actually
24

1 we're talking about these tracts. That's all that has
2 changed.

3 J. C. FRANKS: Yeah, that's fine.

4 MARK SWARTZ: It's all of them.

5 J. C. FRANKS: Okay. Okay, yeah, I recognize that
6 and we discussed it.

7 MARK SWARTZ: And, obviously, we had to change the
8 Exhibit EE to reflect all the tracts as well.

9 J. C. FRANKS: Uh-huh.

10 MARK SWARTZ: So that was just a tract ID issue.

11 J. C. FRANKS: Yeah. Now, we've had...we've had
12 several modification of figures back and forth.

13 MARK SWARTZ: Well, this is just the tracts though.

14 J. C. FRANKS: Uh-huh.

15 BENNY WAMPLER: I need you folks to restate your
16 names for the record, please.

17 MARK SWARTZ: Mark Swartz and Anita Duty. Mr.
18 Franks, you need to tell them your name.

19 J. C. FRANKS: J. C. Franks.

20 MARK SWARTZ: Okay.

21 BENNY WAMPLER: Thank you. You've been previously
22 sworn.

23 BENNY WAMPLER: You may proceed, Mr. Swartz.

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ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Okay. Anita, have you passed out some revised exhibits?

A. Yes.

Q. You need to state your name, again, yourself.

A. Anita Duty.

Q. Okay. Who do you work for?

A. CNX Gas Company.

Q. And what do you do in your job that pertains to why we're here today?

A. I just kind of make sure that the escrow accounts balance.

Q. Okay. Have you pass...these exhibits that you've passed out, the revised exhibits, what was the change?

A. To the tract numbers.

Q. Okay. Originally, it was just Tract 2?

A. Yes.

Q. In both Exhibit A and Exhibit EE, and what did you revise it to?

1 A. It's going to be Tracts 2, 5,6 and 7, which
2 actually matches the supplemental order, after I went back
3 and looked at it. The Tract acres is 2.1...21.75 instead of
4 21.72.

5 Q. Okay. So, that was also a change?

6 A. Uh-huh.

7 Q. Okay. That's on both, yeah, okay. Did you
8 compare or were you able to compare the escrow bank records
9 with the ILM royalty payor records?

10 A. Yes. Everything is balanced.

11 Q. And everything balances?

12 A. Uh-huh.

13 Q. And you've picked a date here to address a
14 dollar balance, correct?

15 A. Yes.

16 Q. And what was that date? That's as of what
17 date?

18 A. It should be June 2005.

19 Q. Okay. On the spreadsheet that I'm looking,
20 which the Board doesn't have, but it looks like as of June
21 the 24th, '05, correct?

22 A. Yeah. Uh-huh.

23 Q. Okay. And, obviously, there's more money on
24

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1 deposit since then?

2 A. Yes.

3 Q. Okay. With regard to the disbursement here,
4 if the Board makes the disbursement that you're requesting
5 from the escrow account, can the escrow account for this unit
6 be closed?

7 A. Yes.

8 Q. Okay. So, you're asking for a 100%
9 disbursement?

10 A. Yes.

11 Q. And in the split agreement percent, is that
12 what should be reflected in the order so at the time the
13 escrow account balance is disbursed, these are the
14 percentages that are applied?

15 A. Yes.

16 Q. And the dollar amounts in the last column is
17 simply illustrative?

18 A. Right.

19 Q. Okay. Okay, again, here in one instance, we
20 do not have any equal or a 50/50 split, correct?

21 A. Correct.

22 Q. And it's a 75/25 again just like in the last
23 one?

24

--

1 A. Yes.

2 Q. Okay. And are you requesting that the Board
3 order, once the disbursement from escrow is made, allow the
4 operator to pay folks directly...these folks directly---?

5 A. Yes.

6 Q. ---consistent with their agreement?

7 A. Yes.

8 MARK SWARTZ: That's all I have.

9 BENNY WAMPLER: Any questions from members of the
10 Board?

11 (No audible response.)

12 BENNY WAMPLER: Mr. Franks?

13 J. C. FRANKS: That's okay, sir.

14 BENNY WAMPLER: All right. Got an agreement on
15 that.

16 J. C. FRANKS: That's fine.

17 BENNY WAMPLER: Is there a motion for approval?

18 JIM MCINTYRE: Motion to approve.

19 MASON BRENT: Second.

20 BENNY WAMPLER: Second. Any further discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying
23 yes.

24

1 (All members signify by saying yes.)
2 BENNY WAMPLER: Opposed, say no.
3 (No audible response.)
4 BENNY WAMPLER: You have approval.
5 (Benny Wampler and Sharon Pigeon confer.)
6 BENNY WAMPLER: Just for clarification, you
7 testified that this was a balance as of 7/31/05. Mark
8 brought up...Mr. Swartz brought up the fact that it's
9 6/24/05.
10 MARK SWARTZ: It would be the same because there is
11 no posting in the meantime, right?
12 ANITA DUTY: The reason for the...the reason for
13 the mistake...like when I get this from the bank, it has July
14 the 18th, 2005 and this was when this spreadsheet was given
15 to me...or I guess calculated by them. So, I just end of the
16 month. But actually the check was in between those two
17 times...like the end of June...you know, June the 25th.
18 BENNY WAMPLER: Okay.
19 ANITA DUTY: So, it's kind of...I don't know which
20 date to pick. I don't know how---.
21 MARK SWARTZ: But the balance would be accurate at
22 the end of the month because the payment that you're tracking
23 occurred during the month?

24

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1 ANITA DUTY: Right.

2 BENNY WAMPLER: Okay.

3 MARK SWARTZ: I don't know if that helps or---.

4 ANITA DUTY: I don't know how---.

5 J. C. FRANKS: Well, my point on that is that they

6 pay it according to it because we will be adjusting to

7 the...to these extraneous characters anyway. So, we'll wipe

8 all of that out regardless.

9 BENNY WAMPLER: Right. You've got a balance and

10 your agreement with...we're going to pay it all out and then

11 it will be a direct workout between the parties after that.

12 J. C. FRANKS: That's right.

13 BENNY WAMPLER: The next item on the agenda is a

14 petition from CNX Gas Company, LLC for disbursement of funds

15 from escrow and authorization for direct payment of royalties

16 on Tract 3, unit N-41, docket number VGOB-93-0420-0359-01.

17 We'd ask the parties that wish to address the Board in this

18 matter to come forward at this time.

19 MARK SWARTZ: Mark Swartz and Anita Duty, again.

20 J. C. FRANKS: J. C. Franks.

21 BENNY WAMPLER: You may proceed, Mr. Swartz.

22

23 ANITA DUTY

24

1 DIRECT EXAMINATION

2 QUESTIONS BY MR. SWARTZ:

3 Q. Anita, you need to state your name one more
4 time.

5 A. Anita Duty.

6 Q. Who do you work for?

7 A. CNX Gas Company.

8 Q. And what...what do you do in your job that
9 pertains to why we're here today on N-41?

10 A. To make sure the escrow accounts are
11 balanced.

12 Q. Okay. What did you review to make that
13 determination?

14 A. ILM's escrow accountings with the bank's
15 accounting.

16 Q. Okay. So, ILM is the company that pays the
17 royalties or disburses the royalties, correct?

18 A. Yes.

19 Q. And then the bank receives them?

20 A. Yes.

21 Q. And when you compare the payor's records
22 with the bank's records, what did you find?

23 A. They balance.

24

--

1 Q. Okay. And what's the balance date that
2 we're...at least in terms of dollars that we're looking at
3 here or the month?

4 A. Are we going in July?

5 Q. This 3292.88 was as of...it looks like the
6 end of June?

7 A. June, yeah.

8 Q. Okay. And in this incidence, when the
9 escrow pays out, it looks like it's not going to pay out all
10 of the funds in escrow?

11 A. No.

12 Q. Okay. So, this escrow account would need to
13 be maintained?

14 A. Yes.

15 Q. When...when this proposed payout from escrow
16 occurs though, does it make all of the payments with regard
17 to Tract 3 or are there still some folks in Tract 3, if you
18 know, that haven't reached split agreements?

19 A. No. Tract 3 will no longer need escrow.

20 Q. Okay. So, that...at least that will zero
21 out---?

22 A. Right.

23 Q. ---even though the total account would not,
24

1 correct?

2 A. Correct.

3 Q. Okay. The split agreements here, the first

4 one is 75/25, correct?

5 A. Yes.

6 Q. And the other two are what?

7 A. 50/50.

8 Q. Okay. And then the owner's percent of

9 escrow you've actually done a calculation for everyone?

10 A. Yes.

11 Q. And is that...are those the percentages that

12 the bank should use at the time that these funds are

13 disbursed?

14 A. Yes.

15 Q. Okay. And then the last column simply

16 illustrates what these percentages would result in in terms

17 of dollars as of a closing date of the end of June of '05?

18 A. Yes.

19 Q. Okay. And are you requesting that once this

20 disbursement occurs with regard to Tract 3, the operator be

21 authorized to pay the people with split agreements directly?

22 A. Yes.

23 MARK SWARTZ: That's all I have.

24

1 BENNY WAMPLER: Mr. Franks, you're in agreement?
2 J. C. FRANKS: Yes.
3 BENNY WAMPLER: Okay.
4 J. C. FRANKS: Yes, sir. That's correct.
5 BENNY WAMPLER: Is there a motion? Any questions
6 from members of the Board?
7 (No audible response.)
8 BENNY WAMPLER: Is there a motion?
9 JIM MCINTYRE: Motion to approve.
10 BENNY WAMPLER: Is there a second?
11 BILL HARRIS: Second.
12 BENNY WAMPLER: Second. Any further discussion?
13 (No audible response.)
14 BENNY WAMPLER: All in favor, signify by saying
15 yes.
16 (All members signify by saying yes.)
17 BENNY WAMPLER: Opposed, say no.
18 (No audible response.)
19 BENNY WAMPLER: You have approval. The next item
20 on the agenda is a petition from CNX Gas Company, LLC for
21 disbursement of funds from escrow and authorization for
22 direct payment of royalties on Tract 1, unit O-40, docket
23 number VGOB-93-0420-0361-02. We'd ask the parties that wish
24

1 to address the Board in this matter to come forward at this
2 time.

3 MARK SWARTZ: Mark Swartz and Anita Duty, again.

4 J. C. FRANKS: J. C. Franks.

5 BENNY WAMPLER: Thank you. You may proceed, Mr.
6 Swartz.

7

8 ANITA DUTY

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. SWARTZ:

11 Q. Anita, your name?

12 A. Anita Duty.

13 Q. Who do you work for?

14 A. CNX Gas Company.

15 Q. What do you do for them that pertains to
16 this hearing today?

17 A. Make sure that the escrow accounts balance.

18 Q. What records did you review to do that?

19 A. ILM's records showing what they had sent to
20 escrow, which is our...pays our royalty payments and the
21 bank's records.

22 Q. Okay. And after you compared them, did you
23 determine whether or not they were in agreement?

24

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1 A. Yes, they were.

2 Q. Okay. Now, in the spreadsheet that you've

3 prepared here, it looks like after...I'm talking about

4 Exhibit A, it looks like after the Tract 1 disbursements are

5 made by the escrow agent there would still be a balance

6 escrow?

7 A. Yes.

8 Q. Okay. So, this escrow account for O-40

9 needs to be maintained?

10 A. Yes.

11 Q. However, after this payments are made, is

12 all...will all of the money pertaining to Tract 1 in this

13 account be paid out?

14 A. Yes.

15 Q. Okay. So, the remaining money would pertain

16 to other tracts?

17 A. Yes.

18 Q. Okay. Again, we have a split...several

19 split agreements. One is a 75/25?

20 A. Yes.

21 Q. And the other two are 50/50?

22 A. Yes.

23 Q. The owner's percent of escrow column, is

24

1 that the number...the percent that the escrow agent should
2 use and apply to the balance on deposit for Tract 1 at the
3 time the disbursement is made?

4 A. Yes.

5 Q. Okay. And then that would ensure that these
6 people get subsequent deposits?

7 A. Yes.

8 Q. Is...are the dollars in the last column
9 simply illustrative?

10 A. Yes.

11 Q. Okay. And the 67952.92 is as of the end of
12 what month?

13 A. June.

14 Q. Okay. Of this year?

15 A. Yes.

16 Q. And there's some money that has come in
17 since then?

18 A. Yes.

19 Q. And after the escrow agent makes the
20 disbursements contemplated, would you also request that the
21 Board allow you to pay the people with split agreements
22 directly?

23 A. Yes.

24

--

1 Q. Okay. And this...just so there's no
2 confusion, the owner's percent of escrow number is the
3 percent of all of the money in escrow?
4 A. Yes.
5 Q. Okay. It's not...we haven't segregated
6 Tract 1---?
7 A. Right.
8 Q. ---from others?
9 MARK SWARTZ: That's all I have.
10 BENNY WAMPLER: Mr. Franks, you're in agreement?
11 J. C. FRANKS: Yes...yes, sir.
12 BENNY WAMPLER: Questions from members of the
13 Board?
14 (No audible response.)
15 BENNY WAMPLER: Is there a motion?
16 (No audible response.)
17 JIM MCINTYRE: Motion to approve, Mr. Chairman.
18 BENNY WAMPLER: Is there a second?
19 MASON BRENT: Second.
20 BENNY WAMPLER: Motion to approve and second. Any
21 further discussion?
22 (No audible response.)
23 BENNY WAMPLER: All in favor, signify by saying
24

1 yes.

2 (All members signify by saying yes.)

3 BENNY WAMPLER: Opposed, say no.

4 (No audible response.)

5 BENNY WAMPLER: You have approval. The next item

6 on the agenda is a petition from CNX Gas Company, LLC for

7 disbursement of funds from escrow and authorization for

8 direct payment of royalties on Tract 2 and 3, unit O-41,

9 docket number VGOB-93-0420-0362-01. We'd ask the parties

10 that wish to address the Board in this matter to come forward

11 at this time.

12 MARK SWARTZ: Mark Swartz and Anita Duty.

13 J. C. FRANKS: J. C. Franks.

14 MARK SWARTZ: Just got a technical issue here, Mr.

15 Chairman. Just one second, if you would.

16 BENNY WAMPLER: Sure.

17 (Mark Swartz and Anita Duty confer.)

18

19 ANITA DUTY

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Anita, you need to state your name.

23 A. Anita Duty.

24

1 Q. Who do you work for?

2 A. CNX Gas Company.

3 Q. What do you do that pertains to why we're

4 here today?

5 A. To make sure the escrow accounts balance.

6 Q. Okay. Do we need to point out a revision

7 that needs to be made to two of the exhibits?

8 A. Yes.

9 Q. Okay. If we look at Exhibit EE, you've got

10 Tract 2 and what should that actually represent?

11 A. It should actually be Tracts 2, 5 and 6.

12 Q. Okay. Similar to what we saw in the

13 other---?

14 A. To match the supplemental order.

15 Q. Okay. And you just checked the supplemental

16 order and verified that that's...that's what's provided?

17 A. Yes.

18 Q. Okay. And then likewise---?

19 BENNY WAMPLER: Wait just one second. Let me...you

20 said Exhibit EE and it's labeled, I believe, EE #2, is that

21 correct?

22 MARK SWARTZ: Correct.

23 BENNY WAMPLER: Okay. Go ahead.

24

1 Q. And then we're going to have to also make
2 the same change on Exhibit A, right?

3 A. Yes.

4 Q. And so with regard to the first three people
5 that are receiving a split, instead of Tract 2 that should
6 actually say 2, 5 and 6?

7 A. Yes.

8 Q. And will you prepare exhibits and get them
9 to the Board after today so they've got something...you know,
10 a revised written exhibit?

11 A. Yes.

12 Q. Okay.

13 A. The tract acres don't change. So, known of
14 the...known of the percentages or anything will change. Just
15 the label.

16 Q. Just tract IDs?

17 A. Yeah.

18 Q. Okay.

19 BENNY WAMPLER: I think we would just accept filing
20 with the Director's office to correct that. Just send to
21 Bob.

22 A. Okay.

23 Q. Even though he doesn't look like Bob.

24

1 GARY EIDE: Thank you. I'll take that as a
2 compliment.

3 JIM MCINTYRE: That's a compliment.
4 (Laughs.)

5 Q. Okay. The...did you compare the ILM
6 records, the royalty payor records with the bank's records?

7 A. Yes.

8 Q. Okay. And were they in agreement?

9 A. Yes.

10 Q. Okay. You have picked a dollar
11 amount...amount due owners that's reported in your last
12 column. When is that? Is that also June as we've seen in
13 the others?

14 A. Yes.

15 Q. June of this year?

16 A. Yes.

17 Q. Okay. The...and the dollar amounts, of
18 course, are simply to illustrate that if it had occurred in
19 June that's the amount that the split agreements would have
20 produced?

21 A. Yes.

22 Q. Okay. In directing the escrow agent to make
23 the disbursements, is it your testimony that the escrow agent
24

1 should apply the percent in the owner's percent of escrow
2 column to the balance on deposit at that time, at the time
3 the disbursement is made and then pay the resulting dollars
4 to each of the parties identified?

5 A. Yes.

6 Q. Okay. When that disbursement is made, will
7 that zero out this escrow account or will there still be
8 money?

9 A. There will still be money there.

10 Q. Okay. Will that money be for tracts other
11 than 2, 5, 6 and 3?

12 A. Yes. Tract 4 would be only one remaining.

13 Q. Okay. So, whatever is left after these
14 disbursements are made would pertain to Tract 4?

15 A. Yes.

16 Q. Okay. But the account, obviously, would
17 need to be maintained?

18 A. Yes.

19 Q. Okay. I think that's it.

20 BENNY WAMPLER: Mr. Franks, do your records show
21 that that's in agreement?

22 J. C. FRANKS: Yeah. But this brings...this brings
23 up something that can clarify why I have so many numbers
24

1 under my 305 sheet because the way the tracts were given, I
2 included all of them and I splitted it up differently.
3 So---.

4 BENNY WAMPLER: Okay.

5 J. C. FRANKS: It goes back to the first full
6 column of Tract 7A...of our Tract 7A.

7 BENNY WAMPLER: But you're in agreement if we pay
8 out by the percent of escrow that we have in here that that's
9 for those tracts.

10 J. C. FRANKS: Yes. But we will recalculate the
11 things anyway.

12 BENNY WAMPLER: Right.

13 J. C. FRANKS: We will get there.

14 BENNY WAMPLER: Okay. Any questions from members
15 of the Board?

16 (No audible response.)

17 BENNY WAMPLER: Is there a motion?

18 JIM MCINTYRE: So moved, Mr. Chairman.

19 BENNY WAMPLER: Motion for approval.

20 BILL HARRIS: Second.

21 BENNY WAMPLER: Second. Any further discussion?

22 (No audible response.)

23 BENNY WAMPLER: All in favor, signify by saying
24
--

1 yes.

2 (All members signify by saying yes.)

3 BENNY WAMPLER: Opposed, say no.

4 (No audible response.)

5 BENNY WAMPLER: You have approval. Mr. Franks, you

6 did have O-39 on here. Of course, that wasn't---.

7 J. C. FRANKS: O-39 was in-house escrow.

8 BENNY WAMPLER: Okay.

9 J. C. FRANKS: I threw those numbers in basically.

10 BENNY WAMPLER: Very good. Thank you very much.

11 Board members, we have one more item, the minutes from the

12 August the 16th, hearing that I believe you were previously

13 distributed. Any discussion on that?

14 (No audible response.)

15 BENNY WAMPLER: If not, I'll entertain a motion for

16 approval.

17 JIM MCINTYRE: So moved.

18 BENNY WAMPLER: Motion for approval. Is there a

19 second?

20 MASON BRENT: Second.

21 BENNY WAMPLER: Second. All in favor, signify by

22 saying yes.

23 (All members signify by saying yes.)

24

1 BENNY WAMPLER: Opposed, say no.

2 (No audible response.)

3 BENNY WAMPLER: You have approval. Thank you very
4 much. That concludes the hearing.

5

6 STATE OF VIRGINIA,

7 COUNTY OF BUCHANAN, to-wit:

8 I, Sonya Michelle Brown, Court Reporter and Notary
9 Public for the State of Virginia, do hereby certify that the
10 foregoing hearing was recorded by me on a tape recording
11 machine and later transcribed under my supervision.

12 Given under my hand and seal on this the 12th day
13 of October, 2005.

14

15 NOTARY PUBLIC

16

My commission expires: August 31, 2009.

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